



**FREEDOM OF INFORMATION ACT
PRIVACY ACT HANDBOOK**

MAY 2006

**CORPORATE COMMUNICATIONS AND
LEGISLATIVE LIAISON**

FOREWORD

The Freedom of Information Act (FOIA), 5 U.S.C. § 552, is a law that provides the public access to Government records. The FOIA is only applicable to documents held by administrative agencies of the executive branch of the Federal Government.

The executive branch includes executive departments and offices, military departments, Government corporations, Government-controlled corporations, and independent regulatory agencies. All records in possession of these entities must be released unless the information falls within one of the nine specific and narrowly drawn exemption categories.

The Privacy Act (PA) of 1974, as amended, 5 U.S.C. § 552a, was enacted for the protection of privacy in administrative processes of Federal executive agencies. This law safeguards the personal privacy of American citizens and lawfully admitted aliens; and establishes procedures to allow them access to records about themselves. It applies to all government agencies that maintain systems of records with personal information about individuals.

This Handbook is provided to help our customers understand the DFAS FOIA and PA processes and how they should submit a request for DFAS records citing either of those laws. It also provides our employees a reference for the processes and requirements of the FOIA and PA.

//Signed//

Nina Richman-Loo
Director, Corporate Communications
and Legislative Liaison

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REFERENCES

- (a) Department of Justice web site, www.usdoj.gov/04foia
- (b) DFAS 5400.7-R, Freedom of Information Act Program, January 1995. No web site available at this time.
- (c) DFAS 5400.11-R, Privacy Program Regulation, October 1995. No web site available at this time.
- (d) DFAS FOIA Reading Room,
<http://www.dod.mil/dfas/more/referencelibrary/freedomofinformationact.html>
- (e) DoD 5400.7-R, Department of Defense Freedom of Information Act Program, September 1998, <http://www.dtic.mil/whs/directives/corres/html/54007r.htm>
- (f) DoD 5400.11-R, Privacy Program, August 1983,
<http://www.dtic.mil/whs/directives/corres/html/540011r.htm>
- (g) DoD Freedom of Information Act web site, <http://www.defenselink.mil/pubs/foi/>
- (h) DoD Privacy Act web site, <http://www.defenselink.mil/privacy/>
- (i) Section 552, of title 5 United States Code, The Freedom of Information Act,
<http://uscode.house.gov/download/pls/5C5.txt>
- (j) Section 552a, title 5, United States Code, The Privacy Act of 1974,
<http://uscode.house.gov/search/criteria.shtml> or <http://www4.law.cornell.edu/uscode/>
- (k) Section 1001, title 18, United States Code, Computer Fraud and Abuse Act of 1986,
<http://uscode.house.gov/search/criteria.shtml> or <http://www4.law.cornell.edu/uscode/>
- (l) Section 1030, title 18, United States Code, National Information Infrastructure Protection Act of 1996, <http://uscode.house.gov/search/criteria.shtml> or
<http://www4.law.cornell.edu/uscode/>

INFORMATION

Defense Finance and Accounting Service (DFAS) personnel and DFAS contractors must comply with the Department of Defense (DoD) and the DFAS programs for the Freedom of Information Act (FOIA) and the Privacy Act (PA). Strict adherence is necessary to ensure uniform implementation of the programs and to create conditions that foster public trust.

Personal information contained in any Privacy Act system of records maintained by a DFAS organization is safeguarded as identified in the Privacy Act system notice for a particular system as published in the Federal Register.

Privacy Act information is made available to the individual to whom it pertains, to the maximum extent practicable. DFAS policy specifically requires that DFAS personnel:

- a. Collect, maintain, use, and disseminate personal information only when it is relevant and necessary to achieve a purpose required by statute or Executive Order.
- b. Collect personal information directly from the individual to whom it pertains, whenever possible.
- c. Inform individuals who are asked to supply personal information for inclusion in any PA system of record the authority or need for collecting the information, how it will be used, who will have access, how it will be protected, and where to obtain copies of the information.
- d. Ensure records used in making determinations about individuals and those containing personal information are accurate, relevant, timely, and complete for the purposes for which they are being maintained. These records should be kept for the minimum period of time necessary to protect individuals and the Government.
- e. Keep no record that describes how individuals exercise their rights guaranteed by the First Amendment to the U.S. Constitution unless expressly authorized by statute or by the individual to whom the records pertain. (Exception: Records of this type may be maintained if they are pertinent to, and within the scope of, an authorized law enforcement activity.)
- f. Notify individuals whenever records pertaining to them are made available under compulsory legal processes, if such a process is a matter of public record.
- g. Establish safeguards to ensure the security of personal information and to protect this information from threats or hazards that might result in substantial embarrassment, inconvenience, or unfairness to the individual.
- h. Establish rules of conduct for DFAS personnel, as well as DFAS contractors, involved in the design, development, operation, or maintenance of any PA system of record, and train them in these rules of conduct.
- i. When required, assist individuals in determining what records pertaining to them are being collected, maintained, used, or disseminated.

j. Permit individuals access to information that pertains to them that is maintained in any PA system of records and permit them to correct or amend that information unless an exemption for the system has been properly established.

k. Advise individuals of their rights to appeal any refusal to grant access to or amend any record that pertains to them and file a statement of disagreement with the record in the event an amendment is refused.

l. Provide on request an accounting of all disclosures of the information pertaining to the requesting individual, except for the following disclosures:

1. To DoD personnel in the course of their official duties.
2. Pursuant to the FOIA.
3. To another agency or instrumentality under the control of the United States conducting law enforcement activities authorized by law.

DFAS personnel are expected to comply with 5 U.S.C. 552, E.O. 13392, DoD 5400.7-R, DFAS 5400.7-R, and other prescribed policies or procedures regarding the implementation and management of the FOIA program. Records not exempt from disclosure due to one of the nine FOIA exemptions, must be made readily accessible to the public in the requested format as long as it is not overly burdensome to the agency to comply with the format request. DFAS FOIA/PA Officers will assist the FOIA requester with the following:

- a. Providing or explaining the proper procedures for submission of a FOIA request for agency records.
- b. Determining the type, name, and the location of the records sought or refer the requester to the appropriate agency if the records are not DFAS records.
- c. Determining the requester's fee category, explain waiver submission requirements, and provide the fee estimates associated with the search and copy fees.
- d. Providing appeal rights and procedures when access to agency records has been denied.
- e. Providing further guidance on the established FOIA policies and procedures as required.

FOIA/PA HANDBOOK

The following is intended to assist you in making Freedom of Information Act (FOIA) and Privacy Act (PA) requests for records maintained by the Defense Finance and Accounting Service (DFAS). It directs you how to make a FOIA request, a FOIA appeal, a PA request, a PA appeal, and how to submit a FOIA online inquiry.

HOW TO MAKE A FOIA REQUEST

You can submit your FOIA request in any of the following formats: written, electronic, or via fax.

Step 1. Preparing Your Request.

a. If you submit a written request, label the envelope "FREEDOM OF INFORMATION ACT REQUEST."

b. Describe the specific record(s) you are seeking with enough detail so that a knowledgeable official of the activity can locate the record with a reasonable amount of effort. Such detail should include, but is not limited to, descriptive information about the document, time frame to be searched, and type of document or report. The more information provided the better opportunity there is to determine if the records exist and where they would be located. The FOIA clearly states that records must exist at the time the request is submitted for the request to be considered a valid FOIA request.

c. State your willingness to pay all FOIA fees, or those up to a specified amount, or provide a justification to support a fee waiver. Unless you specify a specific amount you are willing to pay in the agreement, we consider the agreement to be approval to pay up to \$250. If the fees are estimated to be over the amount you agree to pay, we contact you with an estimated cost prior to searching for the documents. Once you approve the fee, we begin the search for the documents. Currently, we charge for search, review (for commercial requesters only) and duplication costs. See DD Form 2086, Record of FOIA Processing Costs on page 11 to see how FOIA fees are estimated. This form can also be found at:

<http://www.dtic.mil/whs/directives/infomgt/forms/eforms/dd2086.pdf>

d. Include your complete postal service mailing address on your request so we can respond to you. A phone number where you can be contacted is helpful, but is not required.

Step 2. Submitting Your Request.

The next step in submitting your request is deciding where to send the request. DFAS records are decentralized; so if you know which location maintains the record you are seeking send your request to the FOIA/PA Officer at that location. If you do not know where the record is maintained, send your request to the FOIA/PA Program Manager's Office (See Figure 1).

For additional assistance in obtaining addresses, please consult our "Where to Send a FOIA/PA Request" on page 6 of this Handbook. Records may also be located by searching the

applicable DFAS PA systems of record notice published in the Federal Register for the type of record you are requesting. The DFAS PA systems of notices provide the location of the records and access procedures. These notices can be found at the following web site:
<http://www.defenselink.mil/privacy/notices/dfas/>.

Once you have an address, you may submit your request in one of the above-mentioned formats to that DFAS location.

If, after consulting this list or the Federal Register, you are not sure which activity may hold the records you seek, you may call the DFAS FOIA/PA Program Manager, Linda Krabbenhoft, at (303) 676-6045 for assistance.

- a. Submit your request in writing to the appropriate DFAS location or to:

DFAS-DCC/DE
ATTN: Linda Krabbenhoft
FOIA/PA Program Manager
6760 East Irvington Place
Denver CO 80279-8000

- b. Submit your electronic request to Linda.Krabbenhoft@dfas.mil.
- c. Submit your request via fax to 303-676-7710.

Step 3. Processing Your Request.

You should receive a response to your request within 20-workdays. Please keep in mind the 20-workday time limit begins when the FOIA officer at the activity holding the record(s) receives your request, and it does not include Saturdays, Sundays, or legal holidays. Due to the number and complexity of certain requests, and the need for clarification and legal review, some DFAS locations may not be able to fully respond to your FOIA request within 20-workdays.

In limited instances, information requested under the FOIA may be withheld from disclosure if it is:

- a. Currently and properly classified in the interest of national defense or foreign policy.
- b. Related solely to internal personnel rules and practices, the release of which would allow circumvention of a statute or rule.
- c. Protected by a statute that specifically exempts the information from release.
- d. Trade secrets and commercial or financial information obtained from a private source, which would cause substantial competitive harm to the source if released.
- e. Predecisional opinions and recommendations, and inter-agency or intra-agency memoranda or letters that show foreseeable harm, if released.

f. Attorney work-product privilege, which protects documents and other memoranda prepared by an attorney in contemplation of litigation.

g. Attorney-client privilege, which protects confidential communications between an attorney, and his client relating to a legal matter for which the client has sought professional advice.

h. Personnel and medical information, the release of which would result in a clearly unwarranted invasion of personal privacy.

i. Investigative records or information compiled for law enforcement purposes, which could reasonably be expected to interfere with enforcement proceedings; would deprive a person of a right to a fair trial or an impartial adjudication; could reasonably be expected to constitute a clearly unwarranted invasion of personal privacy; could reasonably be expected to disclose the identity of a confidential source; would disclose investigative techniques; could reasonably be expected to endanger the life or physical safety of any individual.

WHERE TO SEND A FOIA/PA REQUEST

The DFAS FOIA/PA Program Manager is located at the DFAS Denver location. Other FOIA/PA Officers are located at the locations listed below.

Denver: Linda Krabbenhoft FOIA/PA Program Manager DFAS-DCC/DE 6760 E. Irvington Place Denver, CO 80279-8000 Office: 303-676-6045 Fax: 303-676-7710
Cleveland: DFAS-DCC/CL 1240 East Ninth Street, Room 2679 Cleveland, OH 44199-8006 Office: 216-522-5225 Fax: 216-522-6530
Columbus: DFAS-DCC/CO 3990 E. Broad Street Columbus, OH 43213-1152 Office: 614-693-6839 Fax: 614-693-7638
Indianapolis: DFAS-DCC/IN 8899 E. 56 th Street Indianapolis, IN 46249-0100 Office: 317-510-7365 Fax: 317-510-1365

Figure 1. Where to Send a FOIA/PA Request.

HOW AND WHERE TO SEND A FOIA APPEAL

If your FOIA request was initially denied in whole or in part, the letter advising you of this denial informs you of your right to appeal the determination to the Agency appellate authority within 60 calendar days. If you wish to make an appeal, you must file your appeal with Deputy Director for Communications Operations, Corporate Communications and Legislative Liaison, DFAS-DCC/Arlington, by sending it to:

DFAS-DCC/DE
ATTN: Linda Krabbenhoft
FOIA/PA Program Manager
6760 E. Irvington Place
Denver, CO 80279-8000

Clearly mark “FOIA APPEAL” on your letter and envelope, and send it to the address listed above, along with a copy of the initial denial letter. Your appeal should include the basis for your disagreement with the initial denial determination.

HOW TO MAKE A PA REQUEST

The following information should help you through the DFAS PA request process. A PA request can only be submitted in writing or via fax, unless you have the capability to scan your original request that contains your actual signature and send it via e-mail. The request must contain your original signature and be submitted with a valid form of identification such as a copy of a photo ID, driver’s license, notarized statement confirming your identity, or power of attorney if you have the authority to request the records you seek. The identification requirement is to help prevent any attempts by unauthorized persons from obtaining your personal information.

Step 1. Preparing Your Request.

a. The request can only be made by the individual to whom the record pertains, or that individual’s designated agent or legal guardian. The information requested must also be maintained within a PA system of record. Indicate in your request that your inquiry is being made under the PA.

b. Describe the specific record(s) you are seeking with enough detail so that a knowledgeable official of the activity may locate the record with a reasonable amount of effort. Such detail should include, but is not limited to, descriptive information about the document, form number, and time frame to be searched. The more information provided, the better opportunity there is to determine if the records exist, and where they would be located.

c. Include on any request your complete postal service mailing address and other identifying information, such as Social Security number, so we can locate and positively identify the record that relates to you and your request. If you do not provide your SSN, we may not be able to process your request.

Step 2. Where to Send a PA Request.

DFAS records are decentralized at our various locations. You may send your request directly to the location that maintains your record or you may send it to the DFAS FOIA/PA Program Manager's location, page 6 (see Figure 1).

See the DFAS PA systems of records notices published in the Federal Register for the location and instructions for accessing the records you seek. The DFAS PA notices contain a complete description of all personal data maintained in the PA system of records. All of the DFAS PA systems of records notices are located at the following web site:

<http://www.defenselink.mil/privacy/notices/dfas>.

HOW AND WHERE TO SEND A PA APPEAL

If your PA request was initially denied, in whole or in part, the letter advising you of the denial of your request also advises you of your right to appeal the determination to the DFAS appellate authority within 60 calendar days. If you wish to make an appeal, you must file your appeal with Deputy Director for Communications Operations, Corporate Communications and Legislative Liaison, DFAS-DCC/Arlington by sending it to:

DFAS-DCC/DE
ATTN: Linda Krabbenhoft
FOIA/PA Program Manager
6760 E. Irvington Place
Denver, CO 80279-8000

If your request was denied for non-compliance with PA requirements, the denial letter explains what you must do to comply in order to obtain access to the records. If the records are not releasable because of permitted exemptions, this will be explained to you in the letter.

Clearly mark "PRIVACY ACT APPEAL" on your letter and envelope, and send it to the address listed above, along with a copy of initial denial letter. Your appeal should include the basis for your disagreement with the initial denial determination.

SAMPLE FOIA REQUEST LETTER

DFAS FOIA OFFICE

Address

City, State, Zip Code

See Figure 1 to locate the “Where to Send A FOIA/PA Request.”

Dear:

This is a request under the Freedom of Information Act (5 U.S.C. § 552). I request a copy of the following document(s) be provided to me (*identify the documents as specifically as possible*).

In order to help you determine my status for the purpose of assessing fees, you should know that I am (*insert one of the descriptions below*).

a. a representative of the news media affiliated with the _____ newspaper (magazine, television station, etc.), and this request is made as part of news gathering and not for a commercial use.

b. affiliated with an educational or noncommercial scientific institution, and this request is made for a scholarly or scientific purpose and not for a commercial use.

c. affiliated with a private business and I am seeking information for use in the company's business.

d. individual seeking information for personal use and not for a commercial use.

(Please select one of the two following paragraphs)

a. I am willing to pay fees for this request up to a maximum of \$_____. If you estimate that the fees exceed this limit, please inform me first.

b. I request a waiver of fees for this request because disclosure of the requested information to me is in the public interest and it is likely to contribute significantly to the public understanding of the operations or activities of DFAS. The request for these records is not primarily for my commercial interest. (Include details about how the requested information contributes significantly to the public understanding of the DFAS operations, and how it will be disseminated by you to the general public).

I can be contacted at (area code & telephone number) to discuss any aspect of my request.

Sincerely,

Name

Address

Telephone number (optional)

SAMPLE PA REQUEST LETTER

DFAS PA OFFICE
Address
City, State, Zip Code

See Figure 1 to locate the “Where to Send A FOIA/PA Request.”

Dear:

This is a request under the Privacy Act (5 U.S.C. § 552). I request I be provided with a copy of (identify the documents as specifically as possible, including branch of service, rank, and any other pertinent information that assists us in obtaining the record(s) you request). (Example: I request a copy of my active duty payroll records for the period January 1992 thru December 1994. During this time I was a CPT in the US Army stationed at Ft. Dix, NJ. My social security number is 000-00-0000.)

The following information is provided so you may respond to my request.

Name:	John D. Doe
Address:	123 1st Street
City:	Anywhere
State:	CO
ZIP Code:	00000-0000
Phone Number:	(000) 123-4567

(Please list a phone number where you can be reached Monday through Friday during the hours of 8 a.m. to 4 p.m., if you wish to be contacted by telephone if we have questions relating to your request. If you request that your records be returned to you via facsimile or via an email message provide the facsimile number or email account. Records sent to you via email over internet lines may not be secured.)

Please feel free to contact me to discuss any aspect of my request.

Sincerely,

NOTE: Although the disclosure of the information listed above is voluntary, please note no reply can be given, unless it is provided. Your social security number is required so we can correctly identify you and your payroll records.

RECORD OF FREEDOM OF INFORMATION (FOI) PROCESSING COST					REPORT CONTROL SYMBOL DD-DA&M(A)1365	
Please read instructions on back before completing form.						
1. REQUEST NUMBER		2. TYPE OF REQUEST (X one)		3. DATE COMPLETED (YYYYMMDD)		4. ACTION OFFICE
		a. INITIAL <input type="checkbox"/> b. APPEAL <input type="checkbox"/>				
5. CLERICAL HOURS (E-9/GS-8 and below)				FEE CODE	(1) TOTAL HOURS	(2) HOURLY RATE
a. SEARCH				1		(3) COST
b. REVIEW/EXCISING				2	X	\$20.00 - 0
c. OTHER ADMINISTRATIVE COSTS				3		0
6. PROFESSIONAL HOURS (O-1 - O-6/GS-9-GS-15)/CONTRACTOR				(1) TOTAL HOURS	(2) HOURLY RATE	(3) COST
a. SEARCH				1		0
b. REVIEW/EXCISING				2	X	\$44.00 - 0
c. OTHER/COORDINATION/DENIAL				3		0
7. EXECUTIVE HOURS (O-7 - ES 1 and above)				(1) TOTAL HOURS	(2) HOURLY RATE	(3) COST
a. SEARCH				1		0
b. REVIEW/EXCISING				2	X	\$75.00 - 0
c. OTHER/COORDINATION/DENIAL				3		0
8. COMPUTER SEARCH				(1) TOTAL TIME	(2) RATE	(3) COST
a. MACHINE TIME (Not PC, desktop, laptop)				4		0
b. PROGRAMMER/OPERATOR TIME (Human)						
(1) Clerical Hours				1	X	\$20.00/hr - 0
(2) Professional Hours				1		\$44.00/hr - 0
9. OFFICE MACHINE COPY REPRODUCTION				(1) NUMBER	(2) RATE	(3) COST
a. PAGES REPRODUCED FOR FILE COPY				3	X	.15 - 0
b. PAGES RELEASED				5		.15 - 0
10. PRE-PRINTED PUBLICATIONS				(1) TOTAL PAGES	(2) RATE	(3) COST
a. PAGES PRINTED				5	X	.02 - 0
11. COMPUTER PRODUCT OUTPUT/ACTUAL COST CHARGES				(1) NUMBER	(2) ACTUAL COST	(3) COST
a. TAPE/DISC/CD				6	X	0
b. PAPER PRINTOUT				3		0
12. OTHER ADMINISTRATIVE FEES				(1) NUMBER	(2) ACTUAL COST	(3) COST
a. ALL POSTAGE/ADMINISTRATIVE (See instructions)				3	X	0
13. AUDIOVISUAL MATERIALS				(1) NUMBER	(2) ACTUAL COST	(3) COST
a. MATERIALS REPRODUCED				4	X	0
14. SPECIAL SERVICES				(1) NUMBER	(2) ACTUAL COST	(3) COST
a. ALL SPECIAL SERVICES (See instructions)				6	X	0
15. MICROFICHE REPRODUCED				5	X	.25 - 0
FEE CODES 1 Chargeable to "commercial" requesters. Chargeable to "other" requesters after deducting 2 hours. 2 Chargeable to "commercial" requesters only. 3 Not chargeable to any fee category. 4 Chargeable to "commercial". Chargeable to "other" after deduction of the equivalent of 2 hours. (Example: deduct \$88.00 professional rate.) 5 Chargeable to all fee categories after deduction of 100 pages (DOES NOT include "commercial"). 6 Chargeable to all fee categories. No deductions.				16. FOR FOI OFFICE USE ONLY a. TOTAL COLLECTABLE FEES b. TOTAL PROCESSING FEES c. TOTAL CHARGED d. FEES WAIVED/REDUCED (X one) e. FEES NOT APPLICABLE (X one)		
				See Chapter 6, Fee Schedule, DoD 5400.7-R, to determine appropriate assessment of fees.		

DD FORM 2086, JAN 2003

PREVIOUS EDITION IS OBSOLETE.

Reset

Figure 2. DD Form 2086, Record of Freedom of Information (for) Processing Cost.

U.S. Government Computer System Privacy and Security Notice

Thank you for visiting the Defense Finance and Accounting Service website and reviewing our privacy policy. Our privacy policy is clear: we do not collect personal information unless provided by the customer we are seeking to assist. Immediately after resolving the customer's concerns, the privacy information is purged.

1. The DFAS public web site is provided as a public service by the Defense Finance and Accounting Service.

2. Information presented on the DFAS public web site is considered public information and may be distributed or copied. Use of appropriate byline/photo/image credits is requested.

3. For site management, information is collected for statistical purposes. This government computer system uses software programs to create summary statistics, which are used for such purposes as assessing what information is of most and least interest, determining technical design specifications, and identifying system performance or problem areas.

4. For site security purposes and to ensure this service remains available to all users, this government computer system employs software programs to monitor network traffic to identify unauthorized attempts to upload or change information, or otherwise cause damage.

5. Except for authorized law enforcement investigations, no other attempts are made to identify individual users or their usage habits. Raw data logs are used for no other purposes and are scheduled for regular destruction in accordance with records disposition schedules governing the investigatory function of the law enforcement body.

6. Unauthorized attempts to upload information or change information on this service are strictly prohibited and may be punishable under the Computer Fraud and Abuse Act of 1986 and the National Information Infrastructure Protection Act.

7. Questions or comments about the information presented here should be forwarded to askdfas@dfas.mil.